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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GS HOLISTIC, LLC,

Plaintiff,

v.

SMOKER'S DELIGHT TOBACCO &
VAPE d/b/a SMOKER'S DELIGHT
TOBACCO & VAPE and JOHN DOE,

Defendant.

No. 5:23-cv-00585

**COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES**

The Plaintiff, GS HOLISTIC, LLC (hereinafter referred to as "GS"), by and through its undersigned counsel, hereby files this, its Complaint against the Defendants, SMOKER'S DELIGHT TOBACCO & VAPE d/b/a SMOKER'S DELIGHT TOBACCO & VAPE and JOHN DOE, and alleges, as follows:

Jurisdictional Allegations

1. This is a civil action against the Defendants for trademark infringement, counterfeiting, and false designation of origin and unfair competition, under the Lanham Act (15 U.S.C. § 1051 *et. seq.*).

2. This Court has subject matter jurisdiction over the claims in this action that relate to

1 trademark infringement, counterfeiting, and false designation of origin and unfair competition
2 pursuant to the provisions of 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a).

3 3. This Court has personal jurisdiction over the Defendants because SMOKER'S
4 DELIGHT TOBACCO & VAPE d/b/a SMOKER'S DELIGHT TOBACCO & VAPE is
5 incorporated in and has its principal place of business in California. The JOHN DOE resides in
6 California, and the Defendants regularly conduct and solicit business in the State of California
7 (including in this Judicial District).

8 **Venue**

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10 4. Venue is proper in this district under 28 U.S.C. § 1391(b) in that the Defendants
11 reside in this district, a substantial part of the events or omissions giving rise to the claim occurred
12 in this district, and the Defendants are subject to personal jurisdiction in this Judicial District with
13 respect to this action, and there is no other district in which the action may otherwise be brought.

14 **Parties**

15 5. GS HOLISTIC, LLC is a Delaware Limited Liability Corporation that has its
16 principal place of business at 7162 Beverly Boulevard, #207, Los Angeles, California 90036. GS
17 is the registered owner of the Stündenglass trademarks.

18
19 6. SMOKER'S DELIGHT TOBACCO & VAPE d/b/a SMOKER'S DELIGHT
20 TOBACCO & VAPE (hereinafter referred to as "SMOKER'S DELIGHT TOBACCO & VAPE")
21 is a company/corporation that is incorporated in California, and has its principal place of business
22 at 43384 State Highway 74 Unit: B, Hemet, CA 92544. SMOKER'S DELIGHT TOBACCO &
23 VAPE has engaged in the unlawful manufacture, retail sale, and/or wholesale sales of counterfeit
24 Stündenglass glass infusers.

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26 7. At all times material to this Complaint, JOHN DOE owned, managed, and/or
27 operated SMOKER'S DELIGHT TOBACCO & VAPE, and regularly exercised the authority to
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1 purchase products for resale, decide which products SMOKER'S DELIGHT TOBACCO & VAPE
 2 offered for sale, to hire and fire employees, and controlled the finances and operations of
 3 SMOKER'S DELIGHT TOBACCO & VAPE.

4 **Facts Common to All Counts**

5 **A. The History of The Stündenglass Brand.**

6 8. Since 2020, GS has marketed and sold products using the well-known trademark
 7 “Stündenglass.” The Stündenglass branded products, such as glass infusers and accessories related
 8 thereto, are widely recognized nationally and internationally. Indeed, the Stündenglass brand is
 9 one of the leading companies in the industry, known for high quality and innovation of products.
 10

11 9. For approximately two years, GS has worked to distinguish the Stündenglass brand
 12 as the premier manufacturer of glass infusers by emphasizing the brand’s unwavering use of quality
 13 materials and focusing on scientific principles which facilitate a superior smoking experience.
 14 Stündenglass branded products embody a painstaking attention to detail, which is evident in many
 15 facets of authentic Stündenglass branded products. It is precisely because of the unyielding quest
 16 for quality and unsurpassed innovation that Stündenglass branded products have a significant
 17 following and appreciation amongst consumers in the United States and internationally.
 18

19 10. As a result of the continuous and extensive use of the trademark
 20 “STÜNDENGLASS,” GS was granted both valid and subsisting federal statutory and common law
 21 rights to the Stündenglass trademark.

22 11. GS is the rightful owner of United States trademarks, which are registered on the
 23 Principal Register and have become incontestable within the meaning of Section 15 of the Lanham
 24 Act, 15 U.S.C. § 1065. The following is a list of GS’s federally registered trademarks:
 25

26 a. U.S. Trademark Registration Number 6,633,884 for the standard character
 27 mark “Stündenglass” in association with goods further identified in registration in
 28 international class 011.

1 b. U.S. Trademark Registration Number 6,174,292 for the design plus words
2 mark “S” and its logo in association with goods further identified in the registration in
3 international class 034.

4 c. U.S. Trademark Registration Number 6,174,291 for the standard character
5 mark “Stündenglass” in association with goods further identified in registration in
6 international class 034.

7 12. The above U.S. registrations are valid, subsisting and in full force and effect.

8 The Stündenglass Brand in the United States.

9 13. GS has used the Stündenglass Marks in commerce throughout the United States,
10 continuously, since 2020, in connection with the manufacturing of glass infusers and accessories.

11 14. The Stündenglass Marks are distinctive to both the consuming public and the
12 Plaintiff’s trade. GS’s Stündenglass branded products are made from superior materials. The
13 superiority of Stündenglass branded products is not only readily apparent to consumers, but to
14 industry professionals as well.

15 15. The Stündenglass Trademarks are exclusive to GS and appear clearly on GS’s
16 Stündenglass Products, as well as on the packaging and advertisements related to the products. GS
17 has expended substantial time, money, and other resources in developing, advertising, and
18 otherwise promoting and protecting these Trademarks. As a result, products bearing GS’s
19 Stündenglass Trademarks are widely recognized and exclusively associated by consumers, the
20 public, and the trade as being high-quality products sourced from GS.

21 16. GS’s Stündenglass Products have become some of the most popular of their kind in
22 the world and have also been the subject of extensive unsolicited publicity resulting from their
23 high-quality and innovative designs. Because of these and other factors, the GS brand, the
24 Stündenglass brand, and GS’s Stündenglass Trademarks are famous throughout the United States.

25 17. Since 2020, GS has worked to build significant goodwill in the Stündenglass brand
26 in the United States. GS has spent substantial time, money, and effort in developing consumer
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1 recognition and awareness of the Stündenglass brand, via point of purchase materials, displays,
2 through their websites, attending industry trade shows, and through social media promotion.

3 18. In fact, the Stündenglass Products have been praised and recognized by numerous
4 online publications, as well as publications directed to the general public.

5 19. Due to the high quality of the brand and products, GS has collaborated with
6 numerous celebrities and companies to create collaborations for the Stündenglass products.

7 20. GS sells its products under the Stündenglass Marks to authorized stores in the United
8 States, including in California. GS has approximately 3,000 authorized stores in the United States
9 selling its products. As such, Stündenglass branded products reach a vast array of consumers
10 throughout the country.
11

12 21. It is because of the recognized quality and innovation associated with the
13 Stündenglass Marks that consumers are willing to pay higher prices for genuine Stündenglass
14 products. For example, a Stündenglass brand glass infuser is priced at \$599.95, while a non-
15 Stündenglass branded product is also being sold for up to \$600, with a range of \$199 to \$600.
16

17 22. It is exactly because of their higher sales value that Stündenglass branded products
18 are targeted by counterfeiters. These unscrupulous people and entities tarnish the Stündenglass
19 brand by unlawfully selling glass infusers that have identical, or nearly identical, versions of the
20 Stündenglass Marks affixed to products that are made with inferior materials and technology,
21 thereby leading to significant illegitimate profits by store owners, such as JOHN DOE.

22 23. In essence, JOHN DOE misleads consumers by selling in their stores low grade
23 products that free ride on the goodwill of the Stündenglass brand, and in turn, JOHN DOE reaps
24 substantial ill-gotten profits. JOHN DOE's conduct contributes to the complete flooding of the
25 marketplace with counterfeit products, which results in lost sales and damages to GS and
26 irreparable harm to the Stündenglass brand's image.
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1 24. Unfortunately, the current U.S. marketplace is saturated with counterfeit products –
2 like those JOHN DOE through his store, SMOKER'S DELIGHT TOBACCO & VAPE, has sold.
3 As such, GS has been forced to scrupulously enforce its rights in order to protect the Stündenglass
4 Marks against infringement. By exercising its Enforcement Rights, GS has proactively and
5 successfully policed the unauthorized use of the Stündenglass Marks and/or counterfeit
6 Stündenglass branded products nationwide. GS has had to bear great expense to seek out and
7 investigate suspected counterfeiters in their attempt to clean up the marketplace.

8 **Defendants' Counterfeiting and Infringing Activities**

9
10 25. The Defendants have, without consent of GS, previously offered to sell and sold
11 within the United States commerce, glass infusers bearing reproductions, counterfeits, copies
12 and/or colorable imitations of the Stündenglass Trademarks that were not made or authorized by
13 GS. (Hereinafter the "Counterfeit Goods").

14 26. Nevertheless, the Defendants sold in commerce the Counterfeit Good using
15 reproductions, counterfeits, copies and/or colorable imitations of one or more of the Stündenglass
16 Marks. Specifically, the Defendants sold reproductions, counterfeits, copies, and/or colorable
17 imitations of the Stündenglass Trademarks (hereinafter the "Infringing Marks"), detailed above.

18 27. The Defendants have, without the consent of GS, continued to sell the Counterfeit
19 Goods bearing the Infringing Marks, bearing the likeness of the Stündenglass Trademarks in the
20 United States.

21 28. The marks affixed to the Counterfeit Goods that the Defendants have offered for
22 sale are spurious marks which are identical with, or substantially indistinguishable from, the
23 Stündenglass Trademarks. The marks on the Counterfeit Goods are in fact counterfeit marks as
24 defined in 15 U.S.C. § 1116(d).

25 29. In the ongoing investigation into the sales of counterfeit products bearing the
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1 Stündenglass Marks, on August 30, 2022, the SMOKER'S DELIGHT TOBACCO & VAPE offered
2 for sale Counterfeit Goods.

3 30. Specifically, GS's investigator purchased a glass infuser with a Stündenglass Mark
4 affixed to it, from SMOKER'S DELIGHT TOBACCO & VAPE, for a cost of \$484.86, charged to
5 the account of GS's investigator.

6 31. Upon receipt, images and/or the physical unit of the product purchased from
7 SMOKER'S DELIGHT TOBACCO & VAPE were inspected by GS's agent to determine its
8 authenticity. The inspection of the purchased item confirmed that the glass infuser SMOKER'S
9 DELIGHT TOBACCO & VAPE sold to GS's investigator was a Counterfeit Good with an
10 Infringing Mark affixed to it.

11 32. JOHN DOE authorized, directed, and/or participated in SMOKER'S DELIGHT
12 TOBACCO & VAPE's offer for sale, in commerce, of the Counterfeit Goods. JOHN DOE's acts
13 were a moving, active, and/or conscious force behind SMOKER'S DELIGHT TOBACCO &
14 VAPE's infringement of the Stündenglass Trademarks.

15 33. The Defendants' use of the counterfeit Stündenglass Trademarks began long after
16 the registration of the Stündenglass Trademarks. GS nor any of its authorized agents have
17 consented to the Defendants' use of the Stündenglass Trademarks, or any use of reproductions,
18 counterfeits, copies and/or colorable imitations thereof.

19 34. The unauthorized sale by SMOKER'S DELIGHT TOBACCO & VAPE, under the
20 authority, direction and/or participation of JOHN DOE, of the Counterfeit Good(s) was an unlawful
21 act in violation of the Lanham Act.

22 35. The offer for sale by the Defendants of the Counterfeit Good(s) bearing GS's
23 Trademarks has caused GS to suffer losses and has caused damage to the goodwill and reputation
24 associated with the Stündenglass Trademarks, which are owned by GS.
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1 36. SMOKER'S DELIGHT TOBACCO & VAPE's use of the Stündenglass Marks
2 includes displaying, selling, and/or offering for sale unauthorized copies of Stündenglass branded
3 products. SMOKER'S DELIGHT TOBACCO & VAPE's offering to sell, and the sale of the
4 Stündenglass counterfeit products, bearing the Infringing Mark in this manner, was, and is, likely
5 to cause confusion or to cause mistake and/or deceive consumers who purchase the Counterfeit
6 Goods.

7 37. SMOKER'S DELIGHT TOBACCO & VAPE used images and names identical to
8 or confusingly similar to the Stündenglass Marks, to confuse customers and aid in the promotion
9 and sales of Counterfeit Goods under the Infringing Mark.
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11 38. The Infringing Mark affixed to the Counterfeit Goods that SMOKER'S DELIGHT
12 TOBACCO & VAPE has distributed, provided, marketed, advertised, promoted, offered for sale,
13 and/or sold, is confusingly identical or similar to the Stündenglass Marks that GS affixes to its glass
14 infusers.

15 39. The glass infusers that SMOKER'S DELIGHT TOBACCO & VAPE sells and offers
16 for sale under the Infringing Mark are made of substantially inferior materials and inferior
17 technology as compared to genuine Stündenglass brand products.
18

19 40. SMOKER'S DELIGHT TOBACCO & VAPE has distributed, provided, marketed,
20 advertised, promoted, offered for sale, and sold its water pipes under the Infringing Mark through
21 its retail convenience store.

22 41. Upon information and belief, SMOKER'S DELIGHT TOBACCO & VAPE has
23 marketed, advertised, and promoted its Counterfeit Goods under the Infringing Mark through point
24 of purchase displays, and/or its website, and/or via social media promotion.
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26 42. SMOKER'S DELIGHT TOBACCO & VAPE and JOHN DOE's infringing acts as
27 alleged herein have caused and are likely to cause confusion, mistake, and deception among the
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1 relevant consuming public as to the source or origin of the Counterfeit Goods sold by SMOKER'S
2 DELIGHT TOBACCO & VAPE, and are likely to deceive, and have deceived, the relevant
3 consuming public into mistakenly believing that the Counterfeit Goods sold by SMOKER'S
4 DELIGHT TOBACCO & VAPE originate from, are associated or affiliated with, or otherwise
5 authorized by GS.

6 43. SMOKER'S DELIGHT TOBACCO & VAPE and JOHN DOE's acts are willful
7 with the deliberate intent to trade on the goodwill of the Stündenglass Marks, cause confusion and
8 deception in the marketplace, and divert potential sales of the Plaintiff's glass infusers to
9 SMOKER'S DELIGHT TOBACCO & VAPE.
10

11 44. SMOKER'S DELIGHT TOBACCO & VAPE and JOHN DOE's acts are causing
12 and, unless restrained, will continue to cause damage and immediate irreparable harm to GS, the
13 Stündenglass Marks, and to its valuable reputation and goodwill with the consuming public for
14 which GS has no adequate remedy at law.

15 45. As a proximate result of the unfair advantage accruing to JOHN DOE and
16 SMOKER'S DELIGHT TOBACCO & VAPE's business from deceptively trading on GS's
17 advertising, sales, and consumer recognition, JOHN DOE and SMOKER'S DELIGHT TOBACCO
18 & VAPE has made and will continue to make substantial profits and gains to which they are not in
19 law or equity entitled.
20

21 46. The injuries and damages sustained by GS has been directly and proximately caused
22 by SMOKER'S DELIGHT TOBACCO & VAPE and JOHN DOE's wrongful advertisement,
23 promotion, distribution, sale and offers for sale of their goods bearing infringements or counterfeits
24 of the Stündenglass Marks.
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26 47. Through such business activities, JOHN DOE and SMOKER'S DELIGHT
27 TOBACCO & VAPE purposefully derived direct benefits from its interstate commerce activities
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1 by targeting foreseeable purchasers in the State of California, and in doing so, have knowingly
2 harmed GS.

3 48. Furthermore, the sale and distribution of Counterfeit Goods by SMOKER'S
4 DELIGHT TOBACCO & VAPE has infringed upon the above-identified federally registered
5 trademarks.

6 49. The spurious marks or designations used by SMOKER'S DELIGHT TOBACCO &
7 VAPE in interstate commerce are identical with, or substantially indistinguishable from, the
8 Stündenglass Marks on goods covered by the Stündenglass Marks. Such use therefore creates a
9 false affiliation between SMOKER'S DELIGHT TOBACCO & VAPE, GS, and the Stündenglass
10 Marks.
11

12 50. Due to the actions of JOHN DOE and SMOKER'S DELIGHT TOBACCO & VAPE,
13 GS has been forced to retain the undersigned counsel and pay the costs of bringing an action
14 forward. The JOHN DOE and SMOKER'S DELIGHT TOBACCO & VAPE should be responsible
15 for paying GS's reasonable costs of the action.
16

17 51. JOHN DOE and SMOKER'S DELIGHT TOBACCO & VAPE's acts have
18 damaged, and will continue to damage GS, and GS has no adequate remedy at law.

19 52. Moreover, SMOKER'S DELIGHT TOBACCO & VAPE and JOHN DOE's
20 wrongful acts will continue unless enjoined by the Court. Accordingly, JOHN DOE and
21 SMOKER'S DELIGHT TOBACCO & VAPE must be restrained and enjoined from any further
22 counterfeiting or infringement of the Stündenglass Marks.
23

24 **Count One**

25 **Federal Trademark Counterfeiting and Infringement, 15 U.S.C. § 1114**

26 53. The Plaintiff avers Paragraphs 1 through 52, which are stated above and incorporate
27 the allegations therein, as though they are fully restated and incorporated in this Count by reference.

28 54. GS owns the federally registered Stündenglass Trademarks, as set forth in more

1 detail in the foregoing paragraphs.

2 55. The Defendants, without authorization from GS, have used in commerce spurious
3 designations that are identical with, or substantially indistinguishable from, the Stündenglass
4 Trademarks on the same goods covered by the Stündenglass Trademarks.

5 56. The Defendants' unauthorized use of counterfeit marks of the registered
6 Stündenglass Trademarks on and in connection with the Defendants' offer(s) for sale in commerce
7 is likely to cause confusion or mistake in the minds of the public.

8 57. The Defendants' conduct as alleged herein is willful and intended to cause
9 confusion, mistake, or deception as to the affiliation, connection, or association of the Defendants,
10 with GS or the Stündenglass Trademarks.

11 58. The Defendants' acts constitute willful trademark infringement in violation of
12 Section 32 of the Lanham Act, 15 U.S.C. § 1114.

13 59. The Defendants' actions constitute the use by the Defendants of one or more
14 "counterfeit mark(s)" as defined in 15 U.S.C. § 1116(d)(1)(B).

15 60. The Defendants' use in commerce of the counterfeit Stündenglass Trademarks has
16 resulted in lost profits and business to GS, which are difficult to determine. The Defendants have
17 also, by selling counterfeit Stündenglass products, caused considerable damage to the goodwill of
18 the Stündenglass Trademarks, and diminished the brand recognition of the Stündenglass
19 Trademarks by introducing counterfeit products into the marketplace.

20 61. By reason of the foregoing, the Plaintiff is entitled to, among other relief, injunctive
21 relief, an award of statutory damages, and costs of the action under Sections 34 and 35 of the
22 Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

23 WHEREFORE, the Plaintiff, GS HOLISTIC, LLC, respectfully requests that this Court find
24 in favor of the Plaintiff and against the Defendant jointly and severally for the OWNER, and other
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1 officers, and directors, for the knowing participation in the counterfeiting activities of SMOKER'S
2 DELIGHT TOBACCO & VAPE, awarding the Plaintiff statutory damages pursuant to 15 U.S.C.
3 § 1117, treble damages pursuant to 15 U.S.C. § 1117(b), the costs of suit, and any further relief that
4 this Court may deem just and proper.

5 **Count Two**

6 **Federal False Designation of Origin and Unfair Competition, 15 U.S.C. § 1125(a)**

7 62. The Plaintiff avers Paragraphs 1 through 52, which are stated above and incorporate
8 the allegations therein, as though they are fully restated and incorporated in this Count by reference.

9 63. GS owns the federally registered Stündenglass Trademarks, as set forth in more
10 detail in the foregoing paragraphs.

11 64. The Defendants, without authorization from GS, has used in commerce spurious
12 designations that are identical with, or substantially indistinguishable from, the Stündenglass
13 Trademarks on the same goods covered by the Stündenglass Trademarks.
14

15 65. The Defendants' unauthorized use of counterfeit marks of the registered
16 Stündenglass Trademarks on and in connection with the Defendants' offers for sale in commerce
17 is likely to cause confusion or mistake in the minds of the public.

18 66. The Defendants' unauthorized use in commerce of the Stündenglass Trademarks as
19 alleged herein constitutes use of a false designation of origin and misleading description and
20 representation of fact in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).
21

22 67. The Defendants' conduct as alleged herein is willful and is intended to, and is likely
23 to, cause confusion, mistake, or deception as to the affiliation, connection, or association of the
24 Defendants, with GS or the Stündenglass Trademarks.

25 68. The Defendants' conduct as alleged herein is causing immediate and irreparable
26 harm and injury to GS, and to the goodwill and reputation of the Stündenglass Trademarks.
27 Moreover, it will continue to cause damage GS and confuse the public unless enjoined by this
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Court.

69. GS has no adequate remedy at law.

70. By reason of the foregoing, the Plaintiff is entitled to, among other relief, injunctive relief, an award of statutory damages, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

WHEREFORE, the Plaintiff, GS HOLISTIC, LLC, respectfully requests that this Court find in favor of the Plaintiff and against the Defendant jointly and severally for the OWNER, and other officers, and directors, for the knowing participation in the counterfeiting activities of SMOKER'S DELIGHT TOBACCO & VAPE, awarding the Plaintiff statutory damages pursuant to 15 U.S.C. § 1117, treble damages pursuant to 15 U.S.C. § 1117(b), the costs of suit, and any further relief that this Court may deem just and proper.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, GS HOLISTIC, LLC, respectfully requests the following relief against the Defendants, as follows:

1. With regard to Plaintiff's Count I for trademark infringement:
 - a. Statutory damages under 15 U.S.C. § 1117;
 - b. Treble damages under 15 U.S.C. § 1117(b);
 - c. Costs of suit; and
 - d. Joint and several liability for JOHN DOE, and other officers, and directors, for the knowing participation in the counterfeiting activities of SMOKER'S DELIGHT TOBACCO & VAPE.
2. With regard to Plaintiff's Count II for false designation and unfair competition:
 - a. Statutory damages under 15 U.S.C. § 1117;
 - b. Treble damages under 15 U.S.C. § 1117(b);

c. Costs of suit; and

d. Joint and several liability for JOHN DOE, and other officers, and directors, for the knowing participation in the counterfeiting activities of SMOKER'S DELIGHT TOBACCO & VAPE.

3. Preliminarily and permanently enjoining SMOKER'S DELIGHT TOBACCO & VAPE and its agents, employees, officers, directors, owners, representatives, successor companies, related companies, and all persons acting in concert or participation with it from:

a. The import, export, making, manufacture, reproduction, assembly, use, acquisition, purchase, offer, sale, transfer, brokerage, consignment, distribution, storage, shipment licensing, development, display, delivery, marketing, advertising or promotion of the counterfeit Stündenglass product identified in the Complaint and any other unauthorized Stündenglass product, counterfeit, copy or colorful imitation thereof;

4. Pursuant to 15 U.S.C. § 1116(a), directing SMOKER'S DELIGHT TOBACCO & VAPE to file with the Court and serve on the Plaintiff's within thirty (30) days after issuance of an injunction, a report in writing and under oath setting forth in detail the manner and form in which SMOKER'S DELIGHT TOBACCO & VAPE has complied with the injunction;

5. For an order from the Court requiring that the Defendants provide complete accountings and for equitable relief, including that the Defendants disgorge and return or pay their ill-gotten gains obtained from the illegal transactions entered into and/or pay restitution, including the amount of monies that should have been paid if the Defendants had complied with their legal obligations, or as equity requires;

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